THE MEETING OF THE LAWYERS

Judge Elliott's Address to Them on the Importance of Self-Government.

Without Local Independence and Central Power the State or Nation Cannot Long Eixst Nor Its People Be Truly Happy.

National Bar Association Favors Evarts's Bill to Help the Supreme Court.

It Also Urges an Increase of the Salaries of Federal Judges—Speeches that Recalled Old-Time Practice in Indiana.

LOCAL SELF-GOVENMENT.

Judge Elliott's Address Before the National Bar Association.

The second day's proceedings of the National Bar Association opened with standing committee reports, which occupied a portion of the morning session. A proposed new by-law was discussed at considerable length, the discussion being suspended for the purpose of listening to an address by Judge Elliott, who was introduced by Judge Doyle, and, after a hearty reception, spoke as follows:

Mr. President and Gentlemen—It is with pleasure and a high appreciation of your kindness that I respond to your courteous invitation to address you. I have chosen for my subject "Local Self-government," and its importance will, I hope, vindicate the choice. The proposition that a free government is of necessity one of checks and balances is trite because it is true. Few will deny this familiar truth, yet many are willing to disregard it, despite the bitter lessons of experience and the solemn warnings of philosophers and statesmen. The desire to cure evils by quick acting and heroic remedies too often move men to sacrifice principle and put in jeopardy the safety of the commonwealth. Evils which arouse the community to indignation so much work upon the minds of the legislators as to influence them to provide relief at the expense of a great principle. Relief thus secured is always temporary, and it is purchased at a price no commonwealth can afford to pay. "It is," says Edmund Burke, "the degenerated fondness for taking short cuts and little fallacious facilities that has in so many parts of the world created governments with arbitrary powers." The vice of ancient democracies was that they ruled by occasional decrees, thus breaking the harmony and consistency of their laws and leading to their downfall. Akin to this ancient vice is that of departing from the fundamental principles and ruling by spasmodic enactments, and this is the vice of our day. No check which experience has demonstrated to be essential to safety can be dispensed with even though to keep it in place may retard action in removing the curing evils. It is better that some evils be suffered than that the great machinery should be crippled. But evils can be cured without departing from fundamental principles, and when thus cured the cure is complete and perfect.

Checks are required, because without checks liberty is impossible. It is, therefore, no reflection upon the patriotism and intelligence of a people to declare that their liberties cannot be maintained if checks are not given places in their governmental system. "The spirit of liberty," said Daniel Webster, "is indeed a bold and fearless spirit, but it is also a sharp-sighted spirit; it is a cautious, sagacious, discriminating, far-seeing intelligence; it is jealous of encroachment, jealous of power, jealous of men. It demands checks; it seeks for guards; it insists on securities; it intrenches itself behind strong defenses, and fortifies itself with all possible care against the assaults of ambition and passion." The constitutional enactments designed to provide checks and balances are not mere empty proclamations of abstract principles intended only to give form and symmetry to a governmental theory; but they are part, at least, of the fortifications and defenses demanded, as Webster says, by "the bold and fearless spirit of liberty." The checks and guards are real things meant to accomplish an actual and practical purpose. Men forget sometimes that abstract principles are as potent as tangible objects, for they are often the vital and vivifying essence of practical acts.

The checks and guards essential to the existence of a free government are not merely those which separate the departments and make each independent within its own sphere, for there are other checks of equal dignity and importance. Local power and central power are essential to the existence of a republic. Power must be both centralized and localized. Distribution and centralization are essential, and yet they are opposed. Distribution is required to prevent absolute imperialism, and centralization to prevent lawless communism. "The chief problem of civilization from a political point of view," writes Mr. Fisk, "has always been how to secure concerted action among men on a great scale without sacrificing local independence." This is true, but the truth may well be more strongly expressed and the thought more fully developed. Life at the center, feverish and infirm, is the condition produced by imperialism, and life in the parts, neither strong nor enduring, is the condition wrought by local independence without central power, and in either case the state or nation cannot long exist, nor its people be truly happy. The check to imperialism and despotic rule is local government, and the check to local domination and internal strife is central power. Local power, if too great, is destructive; central power, if too strong, is none the less so. As in chemistry, the proper combination of ingredients makes a benign and life-saving remedy, although each of the ingredients in itself may be poisonous; so in governmental affairs, the happy combination of principles, dangerous in themselves, often makes the surest and safest remedy against political disease and decay. The problem is to discover the true combination. The true line between local independence and central power is so obscured as not to be fully discernible by men. A search for it cannot, however, be altogether so vain as Ponce de Leon's fruitless quest for the philosopher's stone, for the true line does actually exist. It may be that men will never find the exact line, for, in no science, abstract or physical, can mortals attain unto a perfect knoweldge, since the mental vision is circumscribed much as the all-circling horizon bounds the physical. But the wise know of the existence of the line; they know, too, the necessity of keeping as near it as possible, and they will not turn into unknown paths nor resort to untried methods, merely because it is not within the limited power of men to trace the line with exactness.

The republic of the mountains supplies a noble example of local self-government. Its cantonal assemblies give full representation to the people and inspire them with an unconquerable love of liberty, and teach them the greatest lesson men can learn: that is, how to govern themselves. It is perhaps true that its federation is not complete or perfect, yet it has been strong enough to repel foreign invasion and maintain domestic peace. Its Landesgemeinde is not unlike our New England town meeting, although such assemblies are opened with much more ceremony and the business conducted with much less simplicity than that with which the New Englanders open their own meetings and transact their business. But one cannot blame the brave Swiss because they display with pomp and ceremony the ensign of the bull of Uri, for it is the standard of Morgarten and Sempach. Greece, with its independent cities, is a bright example of local government, but a sad one of the lack of central power. Local government was overmastering and Greece perished. Henry, the city builder, gave a large measure of freedom to cities and great privileges to their citizens, and the nation grew strong and the people prospered. Succeeding monarchs, jealous and grasping, withdrew local power and concentrated it in an imperialism, and the culmination was reached in the fierce and mighty convulsion of the revolution. But perhaps no better historical example can be found than that of colonial Canada. In the conduct of colonial affairs the English, true to the principle which made the little island so great and powerful, fostered local self-government and the French king stifled it. Local self-government secured Canada to England and imperialism lost it to France. French kings and their ministers trusted nothing of government to the colonists, but governed, to the minutest details, from Paris. The ministers instructed the colonial governors to control not merely governmental affairs but also private business matters and household concerns. So thorough, indeed, was the centralization that the king, through his officers, ruled family affairs and gave law to the householders and matrons of the province with patriarchal watchfulness. So fearful, indeed, was the king of any encroachment upon the central power that the governor had a watch set over him in the person of the intendant, while over the intendant the Jesuits kept guard.

Mr. Parkman notes the difference in the methods of the rival nations and says of the French ministers that "Their fault was not that they exercised authority, but they exercised too much of it, and, instead of weaning the child to go alone, kept him in perpetual leading strings, making him, if possible, more and more dependent, and less and less fit for freedom." But he ascribes the failure of France to the character of the colonists rather than to the baneful effect of imperialism, and in this it seems to me he errs. It is doubtless true that the character of the colonists had much to do with the downfall of French supremacy, for they had been enfeebled by long subjection to absolute central power, but the principal cause was the method in which they were governed after they entered the province. Long before Wolfe climbed the heights of Abraham the colonists would have become men capable of founding and maintaining a nation had they been left to govern themselves, and thus made self-reliant and patriotic. The interval which elapsed between the establishment of the colonial government and the overthrow of the French power was ample for the training and education of the brave and hardy men who left the pleasant land of France for the bleak Canadian forests. The men who settled Canada had in them the stuff of which the builders of governments are made, but the imperial rule bereft them of all self-reliance and of all useful governmental knowledge. That the French colonists lost their manhood is no marvel; men entirely stripped of the right to govern their own local affairs dwindle into weaklings incapable of great achievements. England, as historians and statesmen agree, owes her national strength, her liberties and her grandeur chiefly to the dominating principle of her policy, that of local self-government. Her shires, her cities and her hundreds have been the schools and nurseries in which men have learned the principles of government, the value of liberty, and in them the sturdy British freemen were inspired with that chivalric love of country which enabled the little sea-bound kingdom to "circle the earth" with one continuous and unbroken strain of the martial airs of England." Sir Erskine May says that "England alone among the nations of the earth has maintained for centuries a constitutional polity, and her liberties may be ascribed above all things to her free local institutions. Since the days of their Saxon ancestors her sons have learned at their own gates the duties and responsibilities of citizens." It is true of America, in a much greater degree than it is of England, that her people have learned the duties and responsibilities of government at their own gates. "To understand our government," writes Mr. Whipple, "we must not begin with the central power and go down to the homes of the people, but we must begin with the households and neighborhoods and go up to the central power. The Republic grew like a living tree, instead of being hewn out like timber or hammered out like a dead stone. It grew, and the revolution itself was but one stage of a growth that had already been going on for a century and a half—little more, indeed, than the dropping of withered blossoms that the first which they had covered might come to light. Our laws are not paper manufactures, but the organic expression of the public life, and our Constitution marched because the vitality of the Nation was in it." Thinkers, such as De Tocqueville and Lieber, assert, in the strongest terms, that local self-government is not only essential to teach the duties of citizenship, but that it is essential to national life, and this, as every one knows, is the doctrine of our own great statesmen and thinkers. The doctrine is widespread, for it is taught not only by statesmen and by writers on governmental science, by essayists and by philosophers, but it is also taught by the poet. Often rough, but sometimes strong, Walt Whitman says, in his lawless way, that the model city is one where outside authority enters after the precedence of inside authority; where the citizen is always the head and ideal; and President, Mayor, Governor and what not are agents for pay; where the children are taught from the jump that they are to be laws to themselves and to depend on themselves.

The testimony and the authorities to which reference has been made, and which might readily be multiplied, have a two-fold probative force, for they prove that local self-government is indispensable to constitutional liberty, and that it is the birthright of free born men. It is not a derivative right; it does not come from written constitutions nor from legislatures. It comes from the creators of constitutions and the makers of legislative assemblies. It is older than any American Legislature; older than any American constitution. It landed on our shores on that bleak December day when the Puritans knelt on Plymouth Rock. Our fathers gave it place in their governmental systems, and a nation rose in the wilderness of the new world. It brought forth our government; it has made us a great nation, and it is as strong and vigorous as when our flag first kissed the summer's breeze in the morning of the long ago. The right is woven in the fibres of every freeman's being and inheres in him in virtue of his right as a freeman. It is one of the great principles which constitutions sanction and confirm, not one which they create. It is the principle which has made the American Republic and the British kingdom leaders in the stately procession of the nations. "All government," said Edmund Burke, "indeed, every human benefit and enjoyment, every virtue and every prudent act is founded on convenience and barter. We balance inconveniences, we give and take, we remit some rights that we may enjoy others, and we choose rather to be happy citizens than subtle disputants. As we must give away some natural liberty to enjoy civil advantages, so we must sacrifice some civil liberties for the advantages to be derived from the fellowship and communion of a great empire. But in all fair dealings, the thing bought must bear some proportion to the purchase paid. None will barter away the immediate jewel of his soul." These are the words of wisdom from the tongue of one who knew the theory of government in all its extent. The people who barter away the jewel of their liberties are, indeed, unfit for the high estate of freemen. While it is true that something of local independence must be exchanged for central power, yet the jewel itself must be retained. It is the high duty of the citizen to keep "this jewel of liberty in the family of freedom."

There seems to be some occult influence operating on men's minds akin to that which operates on material things. We have often seen a river cast its waters against a bank which obstructs its way, until, at last, the obstruction is swept from its course; then, exulting, as it seems, in its own power, it pours through the new channel it has cut with a wilder and stronger rush, threatening danger to all the lands about it. So it is with the current of human thought; even of thought in its most conservative form, the judicial; for once a new way is opened thought forsakes other channels and dashes through the new, seldom stopping until it has reached some extreme where the danger is so near and so appalling as to check its onward rush. Illustrations are not far to seek. In asserting federal supremacy in recent decisions, the highest court of the land has moved through a new channel, and while it did wisely and well to kill the heresy that threatened to destroy the commercial affairs of the Nation, it has carried the doctrine of central power to the utmost verge of safety. With the highest respect and deepest veneration for that great, pure and able tribunal, I venture, in the exercise of a citizen's right, to say that, in one notable instance, at least, the current of its thought has outrun the lines marked for it by principle and precedent. The decision of the court in the original package case is a strong, and, with profound deference I suggest, a dangerous assertion of central power. If the police power resides in the States—and that it does has been time and time again adjudged—the only federal question presented was whether intoxicating liquor is so far different from other property as to be the subject of police regulation. That it is, there can, it seems to me, be little doubt, for so it has ever been regarded in America, and so it has been for centuries in the mother country. But it is not my purpose to enter upon a discussion of federal and State rights, for that would carry me too far a-field, and I have referred to the decisions of the federal court for the reason that the general principle underlies the path of my argument, and the decisions themselves illustrate and enforce the statement that reaction has set the current too strongly against local independence. It is, however, not so much in controversies involving federal and State rights as in controversies respecting the powers of municipalities that the readiness to overthrow local self-government is manifested. Doctrines have found favor which if carried to their logical result will strike down local independence and increase the central power of the State to imperialism. The monstrous wrongs perpetrated by municipal officers have so moved the community that, losing sight of the great principle of self-government, they have demanded that the central power shall govern, to the exclusion of the local, and this demand has been yielded to in some quarters. The remedy resorted to is more malignant than the disease it is invoked to cure. A remedy which involves the destruction of the principle of self-government is infinitely worse than the disease of municipal misgovernment. It is immeasurably better that some cities should be misgoverned than that a great principle which, if there be truth in history or wisdom in the utterances of men, is absolutely essential to the existence of a free government should be overthrown. There is, however, no just reason to believe that the evils can be cured by concentrating the power in the legislative department of the State government and disfranchising the citizens of the municipalities. If it be said that the Legislature will justly rule where the citizens of a locality fail, it may be fairly answered that until it is shown that the States themselves are not misgoverned it is not fair to assume that the power which failed in respect to the State itself will succeed in justly governing its municipalities. Most men will, I dare say, be slow to affirm that State legislatures do not misgovern. It is not easy, in the light of experience and of history, to find a solid reason for trusting the representatives elected by the people at large and distrusting those elected by the people of the local subdivision immediately interested. The just presumption is that the people of a locality can better conduct their own affairs than can the representatives of the State at large. This presumption prevails with unabated force until it is proved that State legislators always act honestly and discreetly. One ventures little in saying that he who undertakes to overcome the presumption by making the proper proof is quite sure to suffer a nonsuit for lack of evidence. An advocate of centralized power at the expense of local right, who should undertake to prove by contrast that State legislatures are worthier of trust than municipal bodies, would be very apt to think before he got very far that "comparisons are odious." Government of cities by direct legislation is intrinsically vicious. It is certain that where it has been tried it has worked evil. A commission of able men declared that this was its effect in New York. Mr. Bryce, a man whose fairness and ability impress his opinions with great value, approves this judgment, and says of the vicious practice that "it is a dereliction which has brought its punishment with it." It is certain that the English and Scottish cities which have been of late paraded as models are governed by local and not by central power. It is, indeed, everywhere true that those cities are best governed with whose local affairs the central power meddles least.

The truth is that in the government of cities, as in other governmental affairs, safety lies in checks and balances. The preservation of local independence is the check to legislative domination, and the general legislative power is the check to municipal extravagance and corruption. What would be the result if every city in New York were governed directly by the central power, and the citizens of the respective cities excluded from control of their local affairs? What, on the other hand, would be the condition of a State if every city within its borders was absolutely independent, with supreme control of municipal matters? Yet it must be true that the central power has exclusive and supreme control of all cities if it has of one; and, on the other hand, it must also be true that if one city is absolutely independent respecting local affairs, so are all. It seems to me that the just conclusion is that under our American constitutions there is neither exclusive central power nor absolute local independence. It is, at all events, quite safe to affirm that it can never be expedient to build up a strong central power at the cost of municipal independence.

There is no real antagonism between central power and local power, except where the one or the other is pressed too far. The borderland may be narrow, but it exists. Cities may be in a great measure governed by the central power without sacrificing local independence. The legislative control may limit and restrain local power without destroying it. There is a wide sweep of legislative power capable of exercise without any invasion of the right of local self-government, for the Legislature may mould the form of corporate government and set bounds to purely corporate powers without wresting from the citizens of the locality the right to choose their local officers, or the right to vote on their own purely local affairs. One who is guided by the experience of the past will not, I am sure, hesitate to declare that it would be inexpedient to overthrow local independence, and that even if it is within the legislative power to govern cities directly, it would be unwise to do so. There are some who believe that the right cannot be destroyed by any power except that of the people gathered in a constitutional convention. It is certainly not within the power of the Legislature to remove or evade a check placed upon it by the organic law, and if it be true that the right of local self-government is one of the checks provided by law, it must be true that the Legislature can neither evade nor destroy it. If legislative power is limited by the right of local self-government, then it cannot be doubted that the limit is effective, for the Legislature cannot remove a constitutional limitation. This much is clear beyond controversy; so that the only debatable point in this branch of the subject is whether the right of local government is one of the checks provided by the fundamental law. It may be confidently affirmed that for ages it has had a place in our governmental system, and that, until recent times, no one challenged the right; on the contrary, it was everywhere recognized and acted upon as an integral part of the governmental system. Constitutions were made with reference to it; they were, indeed, made because of it, and there is much reason for asserting that it forms part of the organic governmental system. Constitutions are, as is well known, construed with reference to existing things, and are not regarded as creating new institutions or new principles because they are silent concerning long-existing ones; on the contrary, they do, as Webster says, sanction and confirm great principles, but they do not create them. The right of a freeman to choose a wife for himself the Legislature surely cannot destroy, and yet the Constitution is silent upon that subject. The fact is, that silence is not destructive of well known and long existing rights. For this conclusion there is strong reason, since it cannot be assumed that the framers of the Constitution deemed it necessary to protect or preserve by express provisions rights which they must have believed no one would dream of challenging. A rule that would require every right which inheres in freemen to be protected and preserved by express constitutional provisions would compel the framers of a constitution to make a code of laws rather than a governmental c hart. A code of laws embodied in an organic instrument, unyielding and unalterable, save by a slow and expensive process, would be an evil of great magnitude, and yet it is an evil to which some of the States have been driven by the decisions of the courts. Too much constitution, if the expression be allowable, is as great an evil as can well be imagined.

If there is a right so old and so firmly interlinked with free institutions as to be known of all men, it is the right of local self-government. Of all the rights which found a place on American soil with the coming of Englishmen, it has taken the deepest root and borne the richest fruit. It is chief among those rights towering in its "pride of place" and "gray with the dim mist of years." If there be a right in the entire system of government so full of strength and life as to be capable of self-existence, unassisted by any express constitutional provision, it is this great right. If it be true, as historical evidence and weighty authority justify us in affirming, that the right of local self-government is an essential part of the status of free citizenship, then it must be true that it needs no express constitutional provision to create and maintain it, for such things are not created by constitutions. If it be granted that it is an existing right inherent in a citizen, then it is no mere phantom or abstraction to be blown out of existence by the legislative breath. Legislatures cannot create cities; they may frame governments and prescribe methods of corporate action, but they can neither create men and women nor people localities. No law ever made a city, for only men and women can do that. It is not the corporate government that constitutes a municipality; the people of the locality are, in legal contemplation and in reality, the city. The frame of corporate government is a lifeless skeleton; to give life to the artificial being people are essential.

Men gathered in a locality lose no rights of free citizenship; those rights abide with them in the thronged cities as well as in the quiet rural homes. The inherent right of local self-government remains in the citizen wherever he may dwell; it does not vanish when cities spring into existence. The vital principle cannot be annihilated by legislation, however much it may be hedged about by central legislative power. It is one thing to regulate and limit, but it is quite another to destroy. The right to vote on local and to choose local officers is one so firmly interlocked with the other great right of personal liberty that severance is impossible save by tyrannical usurpation and revolutionary measures. In a sense it is within the power of the Legislature to destroy the right of local self-government, and in the same sense it is in the power of the Legislature to perpetuate many great wrongs. Legislatures may, by illegal action—they may, indeed, by illegal inaction—overwhelm a State in ruin. But when the word power is employed to denote might, means and opportunity, the term is not used in its just sense, for the term power, when justly employed, implies right. Without right the Legislature has no power to do an act, for power in the true sense cannot exist without right. The Legislature may have the means, opportunity and might to do wrong, yet have no power. When it is established that might and means do not make constitutional power the ground falls away from the argument that as the Legislature may effectually defeat the exercise of the right of self-government, therefore it has absolute power over municipal corporations. A legislature may be able to prevent the payment of the just debts of the State, but it has no rightful power to do so. Repudiation of honest debts may result from legislative action, but in a just sense repudiation cannot result from the exercise of legislative power. Nor is there real force, although there may be plausibility in the argument that as legislative action respecting municipalities is often beyond judicial control, therefore the legislative power is supreme. The promises may be granted and yet the conclusion may with entire accuracy be denied. Legislatures may do many things in defiance of law, of right and of justice, and yet no other department of government can check or restrain them. It is, indeed, true that very few legislative wrongs can be righted or rebuked save by the people themselves. Illegal claims may be allowed, needed appropriations may be refused and the wheels of government completely stopped, yet none but the electors of the commonwealth can rebuke or correct. Legislative acts may be tyrannical and revolutionary, and yet no remedy can be applied except such as the electors may be able to administer at the polls. It is, therefore, clear that it cannot be justly asserted that because neither the executive nor the judicial departments can correct or restrain illegal or revolutionary acts the legislative power is supreme.

The purely legal phase of the question is one upon which there is much diversity of opinion, and there is reason for this since the question is one with two sides, each supported by considerations and arguments of strength and weight. But whatever may be the just conclusion upon the strictly legal question, it seems to me there can be no diversity of opinion as to the wisdom of maintaining in its integrity the principle which gave our colonies freedom, built them into States and bound the States together in an enduring Union. It was the education and training received at their own gates through local self-government that enabled the colonists to become the builders of States and the founders of a Nation. Local self-government, under central legislative check, for local communities, but no centralized power directly governing our municipalities, is, I hope, the doctrine which shall ever find favor and support from the electors of our American commonwealth.

Continuation of Business.

The association, at the conclusion of Judge Elliott's address, resumed consideration of the proposed new by-law, which was as follows: "Any association shall have the right, on demand of any delegate present, to have a vote on any question (excepting the cases provided in Articles III, V and XI of the constitution) by associations; and the delegate or delegates of the several associations present shall have the right to poll the full vote of the delegates to which their associations are respectively entitled under the constitution." Judge Doyle said he could see no reason for its adoption, but would not oppose it. Secretary Perry urged the association to reject the by-law and stigmatized it as vicious as well as unconstitutional. He argued that if it was adopted one delegate representing several minor associations might easily control enough votes to foist measures upon the National Association distasteful to the majority. In other words, the minority would control the majority. Judge Callihan, of Illinois, thought it very bad taste for an association of lawyers to violate its own constitution. Several members spoke in favor of the new by-law, and the sentiment was pretty equally divided, but finally the matter was indefinitely postponed by the close vote of 17 to 16.

There was no opposition to the admission of the following bar associations, which were accordingly voted in: Illinois State Bar Association; delegates, James B. Bradwell, E. Callihan, Charles Dunham, Samuel W. Moulton, Samuel P. Wheeler, E. Sanford, James M. Flower, E. Heuecy, Henry C. Withers. Terre Haute Bar Association; delegates, Samuel C. Stinson, Sidney B. Davis, B. E. Rhoads. Grant County Bar Association; delegate, W. H. Carroll. Cowley County (Kansas) Bar Association; delegates, M. G. Troup, John A. Eaton and D. C. Anderson.

The question of uniformity in the execution of wills next occupied the association's attention. It was generally agreed that the laws should be of a character that would assure a man the right to dispose of his property in any way he desired, wherever it might be. Judge Heiskell submitted a form, and moved that the association recommend it to the State legislatures. Mr. Reynolds, of Maryland, had a form that he desired substituted for that of Judge Heiskell. C. W. Smith, of this city, and Judge Moore, of Ohio, also offered substitutes, and after a long discussion the good features of the substitutes of Messrs. Smith and Reynolds were combined, and Judge Heiskell withdrew in favor of the amalgamated form. Judge Moore held out for his substitute, however, and after finding it impossible to come to an agreement the association adopted both forms in the shape of two sections, and will recommend the following to the State legislatures:

Every will shall be deemed validly executed for all purposes under the laws of the State which shall be in writing and signed at the end thereof by the testator or for him by some person in his presence and at his request, and which shall be so signed as well as declared by the testator to be his last will and testament in the presence of two or more witnesses, who, in the presence of each other and of the testator, and at his request, shall subscribe their names thereto, neither of whom shall be a devisee or legatee themselves or named therein as executor, and

"Every will and other testamentary instrument made out of the State shall be held to be valid if the same be made according to the form required by the law of the place where such person was residing when the same was made; and the said will, when so executed, shall be admitted to probate and record in any court of this State having probate jurisdiction.

Last year, at White Sulphur Springs, the association discussed at great length a new form of extradition law, but took no action thereon. The matter was brought up yesterday morning and the form proposed last year adopted, after having been amended so as to include the Indian Territory.

AFTERNOON PROCEEDINGS.

Routine of Business and Talks by Distinguished Indianians.

When the question of where the next meeting of the convention should be held was taken up, at the beginning of the afternoon session, it seemed as if each of the one hundred or more lawyers had his individual preference. The committee to select the place reported that Boston would be just the city to suit the association next year. It was urged that a meeting there would serve a good purpose in bringing the lawyers of New England to a support of the association's objects and works. All the advantages of the city, intellectual and otherwise, were set forth, but some of the gentlemen showed a decided opposition to go there. Not that they had any objection to Boston or to Boston's lawyers and people, but they considered a resort like Newport would be the proper place. There they could enjoy fashion, bathing and other advantages of the seaside in intervals of deliberation on the laws of States and nations. Newport did not strike the fancy of others, who favored Long Branch, but it is supposed the promiscuousness of society there would not allow a majority to favor it. A gentleman then suggested Saratoga, and the majority tended that way rapidly until it was said the American Bar Association meets there annually. Indeed, an amendment putting Saratoga in the place of Boston in the report was adopted, but pending a submission of the report as amended Mr. White, of West Virginia, had a word to say. He was willing to let the American Association have Saratoga, and the fact that it met there was sufficient to cause him to oppose the amendment. He preferred to have the National Association meet in Washington every year, with a view of establishing a permanent home in that city.

Secretary Perry thought it a confession of weakness to choose a place like Saratoga, relying upon the attractions of the place to to draw members to a meeting of the assoiation. But the fact that the American Association met there was enough for him. He would prefer to have the Nationals go elsewhere. It was then developed that when the Nationals were organized they proffered the the right hand of fellowship to the Americans. They stated they were not in opposition to the old organization, but desired a unison of feeling and purpose in the good work of having laws and methods of practice adapted to the advancement of the times. The Americans gave no response to this expression of unity, and Secretary Perry then said that he was once on a committee to bear good will and a request to the Americans. They were asked to send representatives to the National Association's annual meeting. That request was summarily laid on the table, and it was the only time the Americans had recognized the Nationals. Naturally the gentlemen of the latter organization, equally as distinguished and learned in the law as those of the other, do not want to cross the path of the Americans. But a few insisted on going to Saratoga, and there was a chance of an afternoon's talk on the matter until Mr. Squire, of Ohio, happily came forward with a motion to practically leave the question with the executive committee. The motion prevailed, and it carried with it instructions to the committee to correspond with the Boston Bar Association in relation to holding the next meeting in that city or some seaside resort in its vicinity. The committee is to do this between now and the 1st of January next.

The question of location being thus settled, Secretary Perry read the following standing committees for the ensuing year:

Executive—Charles Marshall, Md.; Wm. Reynolds, Md.; Louis H. Pike, Ohio; A. C. Harris, Ind.; T. K. Skinker, Mo.; H. C. Brubaker, Pa.; R. T. W. Duke, Va.; Robert White, W. Va.; E. Sanford, Ill.

Uniformity of Laws—Wilbar F. Foster, Ala.; G. W. Shinn, Ark.; R. Percy Wilson, Cal.; Wm. F. Mattingly, D. C.; John H. Hamlin, Ill.; S. O. Pickens, Ind.; J. F. McMullen, Kan.; Henry J. Bowdom, Md.; Christopher G. Fredman, Mo.; D. C. Bramlette, Miss.; E. C. Wade, New Mexico; John H. Doyle, Ohio; R. H. Koch, Pa.; J. B. Heiskell, Tenn.; A. G. Mosley, Tex.; C. V. Meredith, Va.; David B. Lucas, W. Va.

Printing—S. B. Hoge, D. C.; C. G. Burton, Mo.; Samuel H. Kaerdine, Pa.; L. D. Yorrell, Va.; T. L. Brown, W. Va.

Bar Association—Edward F. Taliaferro, Ala.; R. Rose Perry, D. C.; C. W. Smith, Ind.; L. M. Jewett, Ohio; George J. Wadlinger, Pa.; J. J. Turner, Tenn.; J. H. Dismun, Va.; J. D. Ewing, W. Va.; G. A. Finklenberg, Mo.

Law Reform—A. S. Worthington, D. C.; Alfred Ennis, Ill.; Silas M. Shephard, Ind.; J. W. Ady, Kan.; Albert Ritchie, Md.; W. H. Sims, Miss.; John Warrington, Ohio; J. J. Miller, Pa.; W. H. Sands, Va.

Legal Ethics—George E. Dodge, Ark.; George H. Smith, Cal.; Julius Rosenthal, Ill.; Nicholas P. Bond, Md.; Given Campbell, Mo.; Thomas B. Catron, N. M.; Henderson Elliott, Ohio; S. W. Dana, Pa.; W. A. Ketcham, Ind.

Legal Education and Admission to the Bar—Henry C. Tompkins, Ala.; J. M. Moore, Ark.; J. H. Sedgwick, Ill.; J. J. Buck, Kan.; William Marhoney, Md.; C. H. Alexander, Miss.; J. O. Broadwell, Mo.; George K. Nash, Ohio; C. H. McCauley, Pa.

International Law—John Fletcher, Ark.; Calderon Carlisle, D. C.; S. R. Mallory, Fla.; John W. Ela, Ill.; F. C. Stringhoff, Md.; Warwick Hough, Mo.; H. H. Ingersoll, Tenn.; Charles A. Graves, Va.; J. J. Moore, Ohio; Samuel G. Stinson, Ind.

In the course of the afternoon a telegram from Charles Marshall, of Baltimore, president-elect of the association, was read. It expressed his thanks for the honor paid him and his willingness and readiness to do all he could "to advance the prosperity and extend the usefulness of the association." When a resolution introduced Wednesday afternoon was reached, relative to proposed relief for the United States Supreme Court, an interchange of views as to the best mode of proceeding in the matter occurred. The resolution was:

Resolved, That, in view of the importance of the suggestion contained in our President's annual address in regard to measures pending before the Congress of the United States for the relief of the Supreme Court and the expedition of the business before it, the president appoint a committee of this association consisting of one member from each State represented, to memorialize Congress forthwith for the enactment at the present Congress of some law or laws suitable and adequate for the purposes aforesaid.

The Evarts bill seemed to have preference over others now in Congress for the purpose specified. It is practically the old Davis bill, it was said, providing for an additional circuit judge in each circuit. J. W. Warrington, of Ohio, took the lead in urging an amendment to the resolution to memorialize Congress to pass that bill. He said nothing could be gained by sending a memorial without some specific end in view. It would be read and forgotten, but if the committee would prepare a bill or, better still, if it conveyed the wish of the association to have the Evarts bill passed some progress could be gained. The amendment was adopted, as was the resolution as amended.

As a special feature of the afternoon's proceedings speeches from ex-Senator McDonald, Judges Woods and Niblack had been announced. The rest of the time, therefore, was devoted to hearing these distinguished gentlemen. Ex-Senator McDonald, on being introduced, said he thought his hearers had had enough of law, so he proposed to vary the order of speeches and give his recollections of the early Indiana bar and part of eastern Illinois. He was admitted to practice at the April term of the Supreme Court in 1843, when Judges Blackford, Duey and Sullivan were on the bench. He spoke of these judges with the highest praise, and then mentioned Oliver H. Smith, Philip Switzer, Fletcher, Butler and Yandes. "It is Simon Yandes to whom I refer," said Mr. McDonald. "He was among the leading lawyers of his day, and, although he is living here, wealthy and respected, three-fourths of the people would have to be told that Yandes ever practiced law. He is now only heard of through his beneficences which his large fortune enables him to bestow. He has become rich on an income that has grown, while his necessities have not grown." Thus with kindly reference or eulogy, the ex-Senator continued to talk for an hour or more. Alluding to Rufus A. Lockwood, he said he entered the law, married and began practice, living on potatoes and salt. "He had not enough money to buy a ham," Mr. McDonald remarked. But a famous State trial, that against John Frank, gave him a start, and he rapidly stepped to the front and acquired a fortune. Rockwood became involved, though, and he left the State, no one knowing of his whereabouts until they heard of him in Mexico. He next went to New Orleans and studied civil law. He applied for admission to the bar in that city, and after his examination he was passing out of the court-room with his certificate when he saw a man whom he knew in Indiana. Rockwood left New Orleans at once, and enlisted in the regular army. He was once seen standing guard at the tent of a lieutenant. After this he returned to Indiana, resumed practice, regained his name, and then on going to California won the famous Mariposa casa.

In the course of his talk Mr. McDonald spoke of Henry S. Lane, Samuel Wilson, Robt. C. Gregory, the gifted Hannegan, the siver-tongued R. W. Thompson, Samuel Judah and others. He mentioned the lack of books in those days, when lawyers were without reports, and studied the principles of law. From 1816 to 1852, he said, only eight volumes of Indiana Reports were published. "I would like to have lived here then," said in an undertone a lawyer of middle age, sighing at the thought of what a lawyer of to-day has to wade through. Mr. McDonald told of Judge Spitler, who, when clerk, in the days of probate courts in Indiana, made an entry: "Comes now the probate court, but the probate court comes not." That story was told by Mr. McDonald to Abraham Lincoln long before the latter entered upon his great responsibilities as head of the Nation. "I went to Washington," continued the ex-Senator, "just as Mr. Lincoln had returned from his meeting with Alexander Stephens and the other Southern commissioners. I went to the White House, and was introduced to Mr. Lincoln, who at once came forward with outstretched hand, saying, 'I need no introduction to Mr. McDonald. By the way, McDonald, what has become of that Indiana clerk who made the funny entry?'" In a continuation of his remarks the ex-Senator referred frequently to Mr. Lincoln, whom he knew when he traveled the eastern Illinois circuit.

Judge Woods, in his remarks, also gave a reminiscence or two, but he preceded them with an eloquent reference to his love for the South, the land of his birth. He came from the Cumberland region, where his grandfather upheld the institution of slavery and his father as strongly opposed it. They now lie side by side in the cemetery, with their differences forgotten. Thus he hoped the time would come when all differences between the North and South would be laid away forever. From the father, as they came to him through the mother, he learned the lessons of opposition to slavery. There was the lesson of patience he had also been taught in that early time. Probably what he then learned through being compelled to listen to the Sunday readings of "Doddridge's Sermons," "Baxter's Saint's Rest" and "The Book of Martyrs" served him in good stead during his service of seventeen years on the bench. Speaking of the future of the profession of law, observing the conditions of change as they now are, he said the lawyer and priest could no longer be considered as having exclusive control of the thought of the people. There is a dissemination of knowledge through the press that has narrowed the power of the lawyers. He also spoke of the increasing business of the federal judiciary, but congratulated the judges on the passage of the original package act. The original package decision had threatened an interminable run of questions and complications, but the act had saved the judges.

Judge Niblack, for a few minutes, then talked of the recollections of his early practice, and spoke of the increase of business of the Indiana courts now, and how they were conducted before the adoption of the present Constitution. He referred to the necessity for books to-day. Years ago a law library of 900 volumes would have been thought complete, but now the Indiana library has 20,000 volumes and that of New York 30,000. He began practice with $100 worth of books, but now a young lawyer must expend $1,500 before he can be thought to have the books necessary for reference and study. The Judge made an allusion to practicing law by telephone, type-writer and stenographer. He was not yet accustomed to these changes, but he thought he must become so, as, for the third time, he was trying to build up a practice.

Ferdinand Winter, just as the association was about to adjourn, offered a resolution in regard to the proposed increase of salaries of federal judges. In the resolution Congress was urged to pass a bill for that purpose, especially one increasing the salaries of the district judges to $5,000 a year. It was adopted without discussion, and the association adjourned until 9 o'clock this morning.